



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713


TELEPHONE
(213) 974-1609
FACSIMILE
(213) 626-2105
TDD
(213) 633-0901

ROBERT E. KALUNIAN
Acting County Counsel

July 15, 2009

TO: SACHI A. HAMAI
Executive Officer
Board of Supervisors

Attention: Agenda Preparation

FROM: ROGER H. GRANBOIS 
Assistant County Counsel
Law Enforcement Services Division

RE: Center for BioEthical Reform, et al. v. County of
Los Angeles, et al.
United States District Court Case No. SACV 03-00386

Attached is the Agenda entry for the Los Angeles County Contract Cities Liability Trust Fund Claims Board's recommendation in the above-referenced matter. Also attached are the Case Summary, the Summary Corrective Action Plan, and Corrective Action Report.

It is requested that this recommendation, the Case Summary, the Summary Corrective Action Plan, and the Corrective Action Report be placed on the Board of Supervisor's agenda August 4, 2009.

RHG:scr

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Contract Cities Liability Trust Fund Claims Board's recommendation: Authorize settlement of the matter entitled Center for BioEthical Reform, et al. v. County of Los Angeles, et al., United States District Court Case No. SACV 03-00386, in the amount of \$130,000 and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Sheriff's Department Contract Cities Trust Fund's budget.

This lawsuit concerns allegations of violation of civil rights and freedom of speech by the Sheriff's Department.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Center for Bioethical Reform et al. v. Los Angeles County Sheriff's Department et al.
CASE NUMBER	SACV 03-386 GLT(MLGx)
COURT	United States District Court, Central District (Santa Ana)
DATE FILED	April 17, 2003
COUNTY DEPARTMENT	Sheriff's Department Contract Cities Fund - Rancho Palos Verdes
PROPOSED SETTLEMENT AMOUNT	\$130,000
ATTORNEY FOR PLAINTIFF	Robert J. Muise, Thomas More Law Center James Hayes, Ashworth, Hayes & Moran
COUNTY COUNSEL ATTORNEY	Jennifer A.D. Lehman
NATURE OF CASE	Plaintiffs allege that on March 24, 2003, one of its volunteers circled a middle school in Rancho Palos Verdes with enlarged, graphic photographs of early term aborted fetuses posted on the truck he was driving. An employee of Plaintiff accompanied the truck as security in a white Ford Crown Victoria equipped to look like a police car.

Plaintiffs' display quickly caused traffic and other safety concerns for school officials. Faculty members reported difficulty getting children onto the campus, and the Assistant Principal overheard a group of children planning to throw rocks at the truck. He also observed a few students crying. School officials contacted the Sheriff's Department for assistance.

Two Deputies responded to the scene and stopped Kulas' and Padberg's vehicles. After a brief detention, and after consulting with a field Sergeant and school officials, the Plaintiffs were ordered to leave the area, which they did.

In their lawsuit, they claim that their civil rights were violated.

Due to the risks and uncertainties of litigation, and in light of the fact that a prevailing plaintiff in a federal civil rights lawsuit is entitled to an award of reasonable attorneys' fees, a full and final settlement of the case in the amount of \$130,000 is recommended.

PAID ATTORNEY FEES, TO DATE

\$115,885.18

PAID COSTS, TO DATE

\$11,271.16

Summary Corrective Action Plan



The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Date of incident/event:	<p style="text-align: center;"><u>Center for Bio-Ethical Reform, et al. v. County of Los Angeles, et al.</u> (Summary Corrective Action Plan #2009-012)</p> <p>Monday, March 24, 2003; 7:30 a.m.</p>
Briefly provide a description of the incident/event:	<p>On Monday, March 24, 2003, at approximately 7:30 a.m., the plaintiff, Paul Kulas, a volunteer for the Center for Bio-Ethical Reform, was driving a truck around a Los Angeles Unified School District (LAUSD) facility (Rudecinda Sepulveda Dodson Middle School) displaying enlarged, graphic photographic images of early term aborted fetuses. He was accompanied by the second plaintiff, Thomas Padberg, who was driving a white Ford Crown Victoria sedan equipped with a security cage, red and amber flashing lights, push bars, and a roof-mounted antennae.</p> <p>The plaintiff's display of these graphic photographs generated traffic and safety concerns for school officials. The school's assistant principal observed a number of young girls crying. School officials contacted the Los Angeles County Sheriff's Department for assistance.</p> <p>Two deputies responded to the school and contacted the plaintiffs. The deputies summoned a field supervisor.</p> <p>When the field supervisor (sergeant) arrived approximately 30 minutes after the deputies' initial contact with the plaintiffs, he summoned the school's liaison deputy.</p> <p>The school liaison deputy ultimately conferred with the school's assistant principal. Citing California Penal Code section 626.8, Disruptive Presence at Schools, the assistant principal asked the plaintiffs to leave the premises.</p>

1. Briefly describe the root cause of the claim/lawsuit:

The plaintiffs asserted that the actions of the school's assistant principal and the four members of the Los Angeles County Sheriff's Department were unconstitutional in that they violated their First Amendment right to freedom of speech. The plaintiffs also asserted that the sheriff's deputies violated their Fourth Amendment right by detaining them for an unreasonable period of time and by engaging in an unlawful search of their vehicles.

While it is believed the deputies acted lawfully and reasonably under the circumstances, a thorough judicial review concluded that the deputies' 75-minute detention of the plaintiffs was unreasonable.

2. Briefly describe recommended corrective actions:
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

No employee misconduct is alleged.

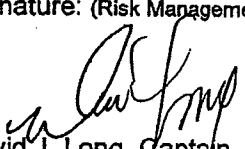
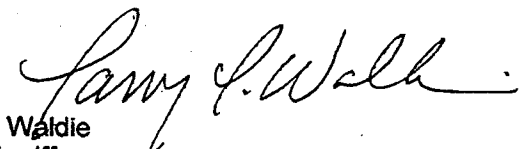
The Los Angeles County Sheriff's Department had adequate policies and procedures/protocols in effect at the time of the incident.

While the Los Angeles County Sheriff's Department's training curricula (recruit, in service, or recurrent) are thorough, comprehensive, and complete, they (curricula) cannot anticipate every contingency expected to be encountered by a patrol deputy working in any one of the Department's three field operations regions. Consequently, the Los Angeles County Sheriff's Department will prepare and distribute a bulletin/newsletter (or similar instrument) to all patrol deputies summarizing the circumstances in this case and their applicability of both the First Amendment and Fourth Amendment to the United States Constitution. The bulletin/newsletter will be distributed by July 31, 2009.

A full and final settlement at this time will avoid further litigation expenses and a potential jury verdict which may exceed the recommended settlement amount.

3. State if the corrective actions are applicable to only your department or other County departments:
(If unsure, please contact the Chief Executive Office Risk Management Branch for assistance)

- ☐ Potentially has County-wide implications.
- ☐ Potentially has implications to other departments (i.e., all human services, all safety departments, or one or more other departments).
- ☒ Does not appear to have County-wide or other department implications.

Signature: (Risk Management Coordinator)  David J. Long, Captain Risk Management Bureau	Date: 7-2-09
Signature: (Department Head)  Larry L. Waldie Undersheriff	Date: 07/13/09

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
RISK MANAGEMENT BUREAU

CORRECTIVE ACTION REPORT

Corrective Action Plan (CAP) Number: 2009-012CR

Lawsuit:

Name: Center for Bio-Ethical Reform, et al. v. County of Los Angeles, et al.

Case/Docket Number: (United States District Court Case Number SACV 03-00386)

Investigator: Esmeralda Lopez, Deputy
Risk Management Bureau
Leadership and Training Division

Incident:

Date/Time: Monday, March 24, 2003; 7:30 a.m.

Location: Rudecinda Sepulveda Dodson Middle School
28014 Monterey Drive
Rancho Palos Verdes
(Contract city)

Station, Bureau, or Facility: Lomita Station
(Field Operations Region II)

Risk Issue(s):

A public entity is responsible for the intentional and wrongful acts of its employees when the acts are committed in the course and scope of employment. A public entity and its employees may also be held liable for the violation of an individual's civil rights. If a violation of civil rights is established, the public entity may be responsible for the plaintiff's attorney fees.

CORRECTIVE ACTION REPORT #2009-012CR
CENTER FOR BIO-ETHICAL REFORM V. COUNTY OF LOS ANGELES, ET AL.
PAGE TWO

Executive Summary:

On Monday, March 24, 2003, at approximately 7: 30 a.m., the plaintiff, Paul Kulas, a volunteer for the Center for Bio-Ethical Reform, was driving a truck around a Los Angeles Unified School District (LAUSD) facility (Rudecinda Sepulveda Dodson Middle School) displaying enlarged, graphic photographic images of early term aborted fetuses. He was accompanied by the second plaintiff, Thomas Padberg, who was driving a white Ford Crown Victoria sedan equipped with a security cage, red and amber flashing lights, push bars, and a roof-mounted antennae.

The plaintiff's display of these graphic photographs generated traffic and safety concerns for school officials. The school's assistant principal observed a number of young girls crying. School officials contacted the Los Angeles County Sheriff's Department for assistance.

Two deputies responded to the school and contacted the plaintiffs. Because the deputies had never before encountered a similar set of circumstances, they summoned a field supervisor. While waiting for the field supervisor to arrive, the deputies conducted a consensual search of the plaintiffs' two vehicles (although the plaintiffs assert the vehicle searches were not consensual).

When the field supervisor (sergeant) arrived approximately 30 minutes after the deputies' initial contact with the plaintiffs, he summoned the school's liaison deputy.

The school liaison deputy ultimately conferred with the school's assistant principal. Citing California Penal Code section 626.8, Disruptive Presence at Schools, the assistant principal asked the plaintiffs to leave the premises.¹

Damages:

The plaintiffs asserted that the actions of the school's assistant principal and the four members of the Los Angeles County Sheriff's Department were unconstitutional in that they violated their First Amendment right to freedom of speech. The plaintiffs also asserted that the sheriff's deputies violated their Fourth Amendment right by detaining them for an unreasonable period of time and by engaging in an unlawful search of their vehicles.

¹ California Penal Code section 626.8(a) states in part that "(A)ny person who comes into any school building or upon any school ground, or street, sidewalk, or public way adjacent thereto, without lawful business thereon, and whose presence or acts interfere with the peaceful conduct of the activities of the school or disrupt the school or its pupils or school activities, is guilty of a misdemeanor ..."

CORRECTIVE ACTION REPORT #2009-012CR
CENTER FOR BIO-ETHICAL REFORM V. COUNTY OF LOS ANGELES, ET AL.
PAGE THREE

Administrative Review:

Was a formal Risk Management Bureau (RMB) Critical Incident Analysis (CIA) conducted? No
If yes, what is the date the meeting was held? N/A

Was another formal administrative review/investigation initiated? No
If yes, was discipline imposed or other appropriate administrative action taken as a result? N/A

Was the employee's driving record analyzed during the administrative review? No

Policy Issues:

The Los Angeles County Sheriff's Department had adequate policies and procedures/protocols in effect at the time of the incident.

Training/Curriculum Issues:

The Los Angeles County Sheriff's Department's current training curriculum sufficiently addresses the circumstances which occurred in this incident (see below).

Evaluation:

While it is believed the deputies acted lawfully and reasonably under the circumstances, a thorough judicial review concluded that the deputies' 75-minute detention of the plaintiffs was unreasonable. Consequently, the plaintiffs are entitled to both damages and attorney fees.

A full and final settlement at this time will avoid further litigation costs and a potential verdict which would likely exceed the recommended settlement amount.

Corrective Action:

No employee misconduct is alleged.

CORRECTIVE ACTION REPORT #2009-012CR
CENTER FOR BIO-ETHICAL REFORM V. COUNTY OF LOS ANGELES, ET AL.
PAGE FOUR

While the Los Angeles County Sheriff's Department's training curricula (recruit, in service, or recurrent) are thorough, comprehensive, and complete, they (curricula) cannot anticipate every contingency expected to be encountered by a patrol deputy working in any one of the Department's three field operations regions. Consequently, the Los Angeles County Sheriff's Department will prepare and distribute a bulletin/newsletter (or similar instrument) to all patrol deputies summarizing the circumstances in this case and their applicability of both the First Amendment and Fourth Amendment to the United States Constitution. The bulletin/newsletter will be distributed by July 31, 2009.

Risk Review/Compliance Audit:

Will this corrective action plan (and/or implementation of any corrective action measures) require notification to, or the assistance from, other County of Los Angeles departments or public agencies? No

If yes, what is the name and title of the person contacted? N/A

How/when was the individual contacted? N/A

Will a formal Risk Management Bureau audit be required? Yes

If yes, what is the date the audit will be performed? August 15, 2009

Name of person/unit performing audit? Sergeant Robert Taliento/
Risk Management Bureau

Prepared: Patrick Hunter, Lieutenant *PH*
Risk Management Bureau

Submitted: David J. Long, Captain *DL*
Risk Management Bureau

Reviewed: Eric B. Smith, Commander *EPS*
Leadership and Training Division

Approved: Roberta A. Abner, Chief *RAA*
Leadership and Training Division

Authorized: Larry L. Waldie, Undersheriff

Signature: *Larry L. Waldie*

Date: 07/13/09